

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 472

Short Title: Auto Insurance Rate-making Reform. (Public)

Sponsors: Representatives Dockham, Murry, and Wray (Primary Sponsors).
For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Insurance, if favorable, Commerce and Job Development.

April 1, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW INSURANCE COMPANIES WRITING PRIVATE AUTOMOBILE
3 INSURANCE IN NORTH CAROLINA TO OFFER OPTIONAL PROGRAM
4 ENHANCEMENTS AND TO ALIGN AUTO INSURANCE RISK AND RATES IN
5 NORTH CAROLINA BY ALLOWING THE CLASSIFICATION OF YOUNG DRIVERS
6 AS A FACTOR IN THE SETTING OF RATES.

7 The General Assembly of North Carolina enacts:

8 SECTION 1. Article 36 of Chapter 58 of the General Statutes is amended by
9 adding a new section to read:

10 "**§ 58-36-43. Private passenger automobile optional program enhancements authorized**
11 **not altering coverage under Rate Bureau jurisdiction.**

12 (a) Member companies writing private passenger automobile insurance under this
13 Article may incorporate optional enhancements to their automobile programs as an
14 endorsement to an automobile policy issued under this Article if the insurer has filed the
15 proposed enhancement with the Commissioner and if the proposed enhancement is approved by
16 the Commissioner. Any approved optional enhancements shall be considered outside the
17 authority of the Rate Bureau. If the proposed enhancement will include an additional premium
18 charge, the proposed premium charge shall be included with the proposed program
19 enhancements filed with the Commissioner. The Commissioner shall review the proposed
20 premium charges to ensure that they are based on sound actuarial principles. Amendments to
21 private passenger automobile program enhancements are subject to the same requirements as
22 initial filings. Neither the acceptance, renewal of a policy, nor any underwriting rating criteria
23 shall be conditioned by a company upon the acceptance by the policyholder of any optional
24 automobile enhancements. A rate amendment authorized by this section is not a rate deviation
25 and is not subject to the requirements for rate deviations set forth in G.S. 58-36-30(a).

26 (b) Any premiums, expenses, or losses associated with individual company automobile
27 program enhancements shall not be submitted by the member companies to their statistical
28 organization for inclusion with the data required by the Rate Bureau for rate-making purposes.
29 Insurers shall utilize a statistical code for reporting premiums and losses resulting from
30 program enhancements filed under this section and shall advise the Department as to the
31 location in the annual statement where this code will be reported."

32 SECTION 2. G.S. 58-3-25 reads as rewritten:

33 "**§ 58-3-25. Discriminatory practices prohibited.**

34 (a) Except as specified in G.S. 58-36-65 and G.S. 58-37-35, ~~No~~ no insurer shall after
35 September 1, 1975, base any standard or rating plan for private passenger automobiles or



1 motorcycles, in whole or in part, directly or indirectly, upon the age or sex of the persons
2 insured."

3 **SECTION 3.** G.S. 58-36-65 reads as rewritten:

4 "**§ 58-36-65. Classifications and Safe Driver Incentive Plan for nonfleet private passenger**
5 **motor vehicle insurance.**

6 (a) The Bureau shall file, subject to review, modification, and promulgation by the
7 Commissioner, such rate classifications, schedules, or rules that the Commissioner deems to be
8 desirable and equitable to classify drivers of nonfleet private passenger motor vehicles for
9 insurance purposes. Subsequently, the Commissioner may require the Bureau to file
10 modifications of the classifications, schedules, or rules. If the Bureau does not file the
11 modifications within a reasonable time, the Commissioner may promulgate the modifications.
12 In promulgating or modifying these classifications, schedules, or rules, the Commissioner may
13 give consideration to the following:

- 14 (1) Uses of vehicles, including without limitation to farm use, pleasure use,
15 driving to and from work, and business use;
- 16 (2) Principal and occasional operation of vehicles;
- 17 (3) ~~Years of driving experience of insureds as~~ Whether any licensed
18 ~~drivers;~~ drivers are under 19 years of age;
- 19 (4) The characteristics of vehicles; or
- 20 (5) Any other factors, not in conflict with any law, deemed by the
21 Commissioner to be appropriate.

22 ...
23 (g) If an applicant for the issuance or renewal of a nonfleet private passenger motor
24 vehicle insurance policy knowingly makes a material misrepresentation ~~of the years of driving~~
25 ~~experience~~ as to whether the applicant is 19 years of age or older or as to the driving record of
26 any named insured or of any other operator who resides in the same household and who
27 customarily operates a motor vehicle to be insured under the policy, the insurer may:

- 28 (1) Cancel or refuse to renew the policy;
- 29 (2) Surcharge the policy in accordance with rules to be adopted by the Bureau
30 and approved by the Commissioner; or
- 31 (3) Recover from the applicant the appropriate amount of premium or surcharge
32 that would have been collected by the insurer had the applicant furnished the
33 correct information.

34 (h) If an insured disputes his insurer's determination that the operator of an insured
35 vehicle was at fault in an accident, such dispute shall be resolved pursuant to G.S. 58-36-1(2),
36 unless there has been an adjudication or admission of negligence of such operator.

37 (i) As used in this section, "conviction" means a conviction as defined in G.S. 20-279.1
38 and means an infraction as defined in G.S. 14-3.1.

39 (j) Subclassification plan surcharges shall be applied to a policy for a period of not less
40 nor more than three policy years.

41 (k) The subclassification plan may provide for premium surcharges for insureds ~~having~~
42 ~~less than three years' driving experience as licensed drivers who are less than 19 years old.~~

43 (l) Except as provided in this section and G.S. 58-36-30(d), no classification or
44 subclassification plan for nonfleet private passenger motor vehicle insurance shall be based, in
45 whole or in part, directly or indirectly, upon the age or gender of insureds.

46 (m) Notwithstanding any other provision of law, with respect to motorcycle insurance
47 under the jurisdiction of the Bureau, any member of the Bureau may apply for and use in this
48 State, subject to the Commissioner's approval, a downward deviation in the rates of insureds
49 who show proof of satisfactory completion of the Motorcycle Safety Instruction Program or a
50 comparable motorcycle safety program provided by federally certified instructors for members
51 of the military."

1 **SECTION 4.** G.S. 58-37-35 reads as rewritten:

2 "**§ 58-37-35. The Facility; functions; administration.**

3 ...

4 (l) The classifications, rules, rates, rating plans and policy forms used on motor vehicle
5 insurance policies reinsured by the Facility may be made by the Facility or by any licensed or
6 statutory statistical organization or bureau on its behalf and shall be filed with the
7 Commissioner. The Board of Governors shall establish a separate subclassification within the
8 Facility for "clean risks". For the purpose of this Article, a "clean risk" is any owner of a
9 nonfleet private passenger motor vehicle as defined in G.S. 58-40-10, if the owner, principal
10 operator, and each licensed operator in the owner's household ~~have two years' driving~~
11 ~~experience as licensed drivers~~ are 18 years of age or older and if none of the persons has been
12 assigned any Safe Driver Incentive Plan points under Article 36 of this Chapter during the
13 three-year period immediately preceding either (i) the date of application for a motor vehicle
14 insurance policy or (ii) the date of preparation of a renewal of a motor vehicle insurance policy.
15 The filings may incorporate by reference any other material on file with the Commissioner.
16 Rates shall be neither excessive, inadequate nor unfairly discriminatory. If the Commissioner
17 finds, after a hearing, that a rate is either excessive, inadequate or unfairly discriminatory, the
18 Commissioner shall issue an order specifying in what respect it is deficient and stating when,
19 within a reasonable period thereafter, the rate is no longer effective. The order is subject to
20 judicial review as set out in Article 2 of this Chapter. Pending judicial review of said order, the
21 filed classification plan and the filed rates may be used, charged and collected in the same
22 manner as set out in G.S. 58-40-45 of this Chapter. The order shall not affect any contract or
23 policy made or issued before the expiration of the period set forth in the order. All rates shall be
24 on an actuarially sound basis and shall be calculated, insofar as is possible, to produce neither a
25 profit nor a loss. However, the rates made by or on behalf of the Facility with respect to "clean
26 risks" shall not exceed the rates charged "clean risks" who are not reinsured in the Facility. The
27 difference between the actual rate charged and the actuarially sound and self-supporting rates
28 for "clean risks" reinsured in the Facility may be recouped in similar manner as assessments
29 under G.S. 58-37-40(f). Rates shall not include any factor for underwriting profit on Facility
30 business, but shall provide an allowance for contingencies. There shall be a strong presumption
31 that the rates and premiums for the business of the Facility are neither unreasonable nor
32 excessive.

33 (m) In addition to annual premiums, the rules of the Facility shall allow semiannual and
34 quarterly premium terms."

35 **SECTION 5.** This act becomes effective July 1, 2013, and applies to policies
36 issued or renewed after that date.